

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

Kevin Brathwaite,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 04-1542-GMS
)	
Thomas Carroll, Warden, et al.,)	Trial by Jury Demanded
)	
Defendants.)	

**State Defendants Nkwopara, Thomas, Stevenson, Carpenter and Wallace's Motion
to Dismiss/Summary Judgment**

The State Defendants, by and through undersigned counsel, hereby move this Honorable Court to enter an order dismissing Plaintiff's Complaint pursuant to Fed. R. Civ. P. 12 (b) (6) for failure to state a claim upon which relief can be granted. In support of their Motion, Defendants offer the Memorandum of Points and Authorities filed simultaneously herewith.

**STATE OF DELAWARE
DEPARTMENT OF JUSTICE**

/s/ Ophelia M. Waters

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DATE: February 7, 2006

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)	
Defendants.)	

ORDER

AND NOW, this _____ day of _____, 2006, the Motion To Dismiss filed by State Defendants Nkwopara, Thomas, Stevenson, Carpenter and Wallace in the above-captioned matter having been duly considered, and any opposition thereto, is granted; and,

IT IS ORDERED that judgment be and is hereby entered against Plaintiff and in favor of the State Defendants.

The Honorable Gregory M. Sleet, Judge
United States District Court

CERTIFICATE OF SERVICE

I hereby certify that on February 7, 2006, I electronically filed *State Defendants Nkwopara, Thomas, Stevenson and Carpenter and Wallace's Motion to Dismiss/Summary Judgment* with the Clerk of Court using CM/ECF. I hereby certify that on February 7, 2006, I have mailed by United States Postal Service, the document to the following non-registered participant: Kevin C. Brathwaite; SBI #315294; Delaware Correctional Center; 1181 Paddock Road; Smyrna, DE 19977.

**STATE OF DELAWARE
DEPARTMENT OF JUSTICE**

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